

## In Confidence

Office of the Minister for Social Development and Employment

Cabinet Legislation Committee

## Social Workers Registration Legislation Amendment Bill: Approval for Introduction

### Proposal

- 1 This paper seeks approval for the introduction of the attached Social Workers Registration Legislation Amendment Bill (the Bill) to give effect to policy previously agreed by Cabinet. The Bill amends section 2(2) of the Social Workers Registration Legislation Act 2019 (SWRL Act) to delay the repeal of the experience pathway for social worker registration until 28 February 2028. The Bill is part of the 2023 Legislation Programme as a category three priority (to be passed if possible before the 2023 general election) [SWC-23-MIN-0002 and CAB-23-MIN-0026 refer].

### Policy

- 2 Social workers provide an essential frontline service to marginalised and under-served communities, and a social worker workforce that is responsive to increasingly complex and diverse needs is crucial. The Social Workers Registration Act 2003 (2003 Act) sets out occupational regulation for social workers to ensure professionalism and public safety through competency standards and accountability mechanisms.
- 3 To be eligible for registration, applicants must have a qualification prescribed (a prescribed qualification) under a scope of practice set by the Social Workers Registration Board (SWRB). Section 13 of the 2003 Act (section 13) provides an alternative pathway to registration for people with extensive practical experience but without a prescribed qualification. This is called the experience pathway. Social workers applying through this pathway usually have at least 10 to 15 years of practical experience which is used to demonstrate they meet the professional competency standards set by SWRB.
- 4 All applicants must meet the competency standards set by SWRB and the fit and proper test, which ensures the safety of social workers to practise. There is no evidence to suggest that experienced social workers without a prescribed qualification, who otherwise meet SWRB competency standards and registration requirements, are less safe or competent than academically qualified social workers. For example, there is no evidence to suggest a disproportionate number of social workers registered through the experience pathway end up in disciplinary processes, compared to those registered with a prescribed qualification.

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- 5 The SWRL Act repealed section 13 with a delayed commencement date. The repeal was agreed to by Cabinet in 2017 [CAB-17-MIN-0234 refers] and is due to take effect on 28 February 2024, removing the ability for people without a prescribed qualification to apply to register as a social worker based on their practical experience. Social workers already registered under the experience pathway prior to the repeal date will continue to have their registration recognised.
- 6 The decision to repeal the experience pathway was based on the view that professionalisation of social workers would be accomplished by emphasising academic achievement as part of the registration process. This was underpinned by an assumption that there would be sufficient supply to meet future demand for social workers.

*The social work sector has undergone significant changes since the original decision to repeal section 13*

- 7 Recent Cabinet decisions to extend the social worker pay equity settlement across the government-funded sector (the pay equity settlement) [SWC-22-MIN-0196 refers] provides a financial incentive for people to register as social workers. This provides an opportunity to increase the quality and safety of social services by bringing these practitioners under existing oversight and accountability mechanisms administered by SWRB.
- 8 In addition, workforce pressures of increased demand for social work services exacerbated by the impacts of COVID-19, an ageing workforce, and reduced student enrolments and completion of prescribed qualifications are compounding existing workforce shortages. Repealing the experience pathway in 2024 will further limit the pipeline of social workers into the workforce and is likely to exacerbate workforce shortages in coming years.
- 9 There has also been increasing recognition of the value of indigenous (Te Ao Māori) practice in social work, which the experience pathway supports. Around a quarter of social workers registered under the experience pathway over the past 13 years have identified as Māori. SWRB have been working with Māori social workers to make the application process for the experience pathway more holistic, culturally responsive, and accessible. This pathway also provides a mechanism for addressing inequity and contributing to a more diverse and representative social worker workforce, while longer-term work on entry pathways into the social work sector are being considered.

*The Social Workers Registration Legislation Amendment Bill will extend the experience pathway for a limited time*

- 10 On 20 February 2023, Cabinet agreed to progress an amendment to section 2(2) of the SWRL Act, to delay the repeal of section 13 and extend the experience pathway a further four years [SWC-23-MIN-0002 refers]. To give effect to this policy previously agreed, I propose introducing the attached Bill. This amendment is being progressed as a standalone bill with a category three priority on the 2023 Legislation Programme (to be passed if possible before the 2023 general election). The Cabinet decision requires a legislative amendment to give effect to this change and cannot be given effect by any other means.

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- 11 A time-limited extension for the experience pathway is appropriate as it was never intended to be a permanent option for social worker registration. Over time, the pool of people eligible to register through the experience pathway is also likely to gradually diminish and will become less relevant.
- 12 The initial agreement by Cabinet was to extend the experience pathway a further four years to 27 February 2028. In the process of drafting the bill, the Parliamentary Counsel Office (PCO) raised the issue that four years from the current repeal date is 28 February 2028. Cabinet authorised me to make minor and technical decisions during the process of drafting the bill that are consistent with the policy decisions agreed to. For consistency with the agreed to four years extension policy, the bill now uses 28 February 2028 as the proposed repeal date.
- 13 Delaying the repeal until 28 February 2028 is recommended on the basis that SWRB is due to submit its next five-yearly review of the 2003 Act (the review) by 2025. The review will likely include long-term considerations for social worker registration. For example: how to embed tikanga Māori and indigenous models of practice in social work; the importance of workforce inclusivity; supporting Māori and Pacific student retention and achievement; and further options to address workforce supply and demand issues. An additional three years is suggested to allow time for any legislative amendments resulting from the review's recommendations to be progressed through the House of Representatives (the House).
- 14 Temporarily delaying the repeal of the experience pathway has support from representatives across the social work sector in light of implications of the pay equity extension and broader equity considerations.

*I have considered risks to extending the experience pathway*

- 15 There may be a perception across some parts of the public and social work sector that people with a qualification are likely to maintain a higher level of public safety and professionalism in social work practice. There is a similar perception risk that delaying the repeal of the experience pathway removes a safeguard in place for social workers. This proposal is likely to be subject to scrutiny and discussion at Select Committee.
- 16 To address this risk, SWRB will engage with the sector to raise awareness of the safety mechanisms in place for all registered social workers (regardless of their qualification status) and provide assurance that its criteria uphold both public safety and professionalism of social workers.

**Impact analysis**

- 17 The Treasury's Regulatory Impact Analysis team has determined that the extension of the experience pathway for social worker registration is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for profit entities.

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## Compliance

- 18 The Social Workers Registration Legislation Amendment Bill complies with each of the following:
- 18.1 the principles of The Treaty of Waitangi;
  - 18.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 18.3 the disclosure statement requirements. A disclosure statement has been prepared and is attached to this paper;
  - 18.4 the principles and guidelines set out in the Privacy Act 2020;
  - 18.5 relevant international standards and obligations;
  - 18.6 the Legislation Guidelines (2021 edition) which are maintained by the Legislation Design and Advisory Committee.

## Te Tiriti o Waitangi considerations

- 19 Extending the availability of the experience pathway will continue to enable Māori who have valuable lived and practical experience (working in roles similar to social work) to register as social workers while longer-term pathways are developed. This helps to support the growth of a diverse and culturally competent workforce able to meet the needs of a range of Māori people, whānau and communities which, in turn, better supports the achievement of equitable outcomes for Tāngata Whenua.
- 20 Delaying the repeal of the experience pathway will support greater participation of Māori in the development of social worker registration pathways over the longer-term. In particular, it will enable SWRB to build on partnerships and expand its existing work with Māori to create culturally responsive and accessible pathways into the social work profession before the pathway is removed or replaced.

## Consultation

- 21 MSD consulted across government and with the social work sector to inform the Bill. MSD worked closely with SWRB on the proposal to delay the repeal of the experience pathway and SWRB strongly support the approach proposed.
- 22 Oranga Tamariki, Manatū Hauora and Te Aka Whai Ora support the proposal as it provides a more accessible pathway for social work registration for Māori. It also supports Pacific Peoples and others who are underrepresented in the social work workforce to become social workers. Oranga Tamariki supports keeping the experience pathway open for a fixed period in light of the recent decision to extend the social sector pay equity settlement to all government-funded providers, but does not support an indefinite continuation.
- 23 Other government departments and public bodies consulted with and which provided feedback include: Whaikaha – Ministry of Disabled People, Te Puni Kōkiri, Te Whatū Ora, Te Arawhiti, Te Puna Aonui, New Zealand Police, Accident

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Compensation Corporation, Tertiary Education Commission, Te Kawa Mataaho, Ministry of Education, Employment Education and Training Secretariat, Ministry for Ethnic Communities, Department of Prime Minister and Cabinet, and Office for Seniors. All departments were supportive of the proposal and acknowledged the importance of a representative social work workforce.

- 24 The Social Work Alliance<sup>1</sup> were also consulted. Social Service Providers Aotearoa and Tangata Whenua Social Work Alliance wrote to me to confirm their support for the proposal.

### **Binding on the Crown**

- 25 The principal Act that this Bill amends – the Social Workers Registration Legislation Act 2019 – is binding on the Crown.

### **Allocation of decision-making powers**

- 26 Not applicable.

### **Associated regulations**

- 27 Not applicable.

### **Other instruments**

- 28 Not applicable.

### **Definition of Minister/department**

- 29 Not applicable.

### **Commencement of legislation**

- 30 I propose that the Bill come into force on the day after the date of Royal assent.

### **Parliamentary stages**

- 31 I propose that the Bill be introduced to the House of Representatives on 13 April 2023, to be passed by 20 December 2023.
- 32 I propose that the Bill be referred to the Social Services and Community Committee for consideration to report back by 4 September 2023.

### **Proactive Release**

- 33 If agreed, this proposal will continue to be under active consideration for more than 30 days after it is tabled at Cabinet. For this reason, I do not intend to proactively

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<sup>1</sup> The Social Work Alliance is a cross-sector representative body convened by the SWRB and includes: Aotearoa New Zealand Association of Social Workers, Council for Social Work Education Aotearoa New Zealand, Health Social Work lead, New Zealand Council of Christian Social Services, Social Service Providers Aotearoa, SWRB, Tangata Whenua Social Workers Association, Te Toitu Waiora – Workforce Development Council, New Zealand Public Service Association, Department of Corrections, Oranga Tamariki, and Te Puni Kōkiri.

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release and publish this paper until after the Social Workers Registration Legislation Amendment Bill 2023 has passed through the House.

**Recommendations**

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Social Workers Registration Legislation Amendment Bill holds a category three priority on the 2023 Legislation Programme (to be passed if possible before the 2023 general election);
- 2 **note** that the Bill will amend section 2(2) of the Social Workers Registration Legislation Act 2019 delaying the repeal of section 13 of the Social Workers Registration Act 2003 to 28 February 2028;
- 3 **note** that the amendment will allow people without a prescribed qualification to continue to apply to register as a social worker based on their practical experience;
- 4 **approve** the Social Workers Registration Legislation Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 5 **agree** that the Bill be introduced on 13 April 2023;
- 6 **agree** that the government propose that the Bill be:
  - 6.1 referred to the Social Services and Community Committee for consideration, for report back on by 4 September 2023;
  - 6.2 enacted by 21 December 2023.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development and Employment

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